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11 Attorneys for Plaintiff
12 United States of America

13 UNITED STATES DISTRICT COURT

14 DISTRICT OF NEVADA

15 UNITED STATES OF AMERICA,) CASE NO. 2:11-cr-00337-JCM-GWF
16 Plaintiff,)
17 v.) GOVERNMENT'S MOTION TO DISMISS
18 DAVID AMESBURY,) CRIMINAL INFORMATION WITHOUT
19 Defendant.) PREJUDICE

20 COMES NOW the United States of America, by and through the undersigned counsel,
21 and moves to dismiss the Criminal Information without prejudice filed in the above-captioned
22 case against defendant David Amesbury, pursuant to Rule 48(a) of the Federal Rules of Criminal
23 Procedure.
24

25 As grounds for this motion, the government states as follows:

26 1. The defendant was charged in a Criminal Information on one count of conspiracy to
27 commit mail and wire fraud, in violation of Title 18, United States Code, Section 1349, and one
28 count of conspiracy to commit bank fraud, in violation of Title 18, United States Code, Section
1349.

2. On October 24, 2011, Defendant Amesbury entered a plea of guilty as to both counts.

3. A sentencing hearing was scheduled for September 21, 2012 at 10:30am.

4. On or about March 25, 2012, Defendant Amesbury died. A working copy of a death
certificate is attached.


1 5. Dismissals under Rule 48(a) are generally without prejudice. *See* 3B Fed. Prac.
2 & Proc. Crim. (3d ed.), Fed. Crim. Rules Handbook FCRP 48 (2011 ed.).

3 6. It is in the best interest of justice to dismiss the Criminal Information filed against
4 defendant David Amesbury, without prejudice.

5 WHEREFORE, the Government by and through the undersigned counsel, respectfully
6 requests the dismissal of the Criminal Information filed against defendant David Amesbury,
7 without prejudice.

8
9 DENIS McINERNEY
10 Chief
11 Fraud Section, Criminal Division
12 U.S. Department of Justice

11 6/5/12

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13 CHARLES G. LA BELLA
14 Deputy Chief
15 MARY ANN McCARTHY
16 Trial Attorney
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CERTIFICATE OF DEATH

STATE OF CALIFORNIA
USE BLACK INK ONLY / NO ERASURES, WHITEOUTS OR ALTERATIONS
VS-11a (REV 3/06)

| STATE FILE NUMBER | | LOCAL REGISTRATION NUMBER | |
|---|---|--|---|
| DECEDENT'S PERSONAL DATA | 1. NAME OF DECEDENT- FIRST (Given) DAVID | 2. MIDDLE CLYDE | 3. LAST (Family) AMESBURY |
| | AKA. ALSO KNOWN AS - Include full AKA (FIRST, MIDDLE, LAST) - | | 4. DATE OF BIRTH mm/dd/ccyy 05/05/1954 |
| | 5. AGE Yrs. 57 | | 6. SEX M |
| | 9. BIRTH STATE/FOREIGN COUNTRY OR | 10. SOCIAL SECURITY NUMBER 562-96-5491 | 11. EVER IN U.S. ARMED FORCES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK |
| | 12. MARITAL STATUS/SRDP* (at Time of Death) MARRIED | | 7. DATE OF DEATH mm/dd/ccyy 03/25/2012 |
| 8. HOUR (24 Hours) 1735 FND | | | |
| USUAL RESIDENCE | 13. EDUCATION - Highest Level/Degree (see worksheet on back) PROFESSIONAL | | 14/15. WAS DECEDENT HISPANIC/LATINO(A)/SPANISH? (If yes, see worksheet on back) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |
| | 16. DECEDENT'S RACE - Up to 3 races may be listed (see worksheet on back) WHITE | | |
| | 17. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED LAWYER | | 18. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, road construction, employment agency, etc.) LAW |
| | 19. YEARS IN OCCUPATION 22 | | |
| | 20. DECEDENT'S RESIDENCE (Street and number, or location) 9428 GREENHAM CIRCLE | | |
| INFORMANT | 21. CITY LAS VEGAS | | 22. COUNTY/PROVINCE CLARK |
| | 23. ZIP CODE 89117 | | 24. YEARS IN COUNTY 22 |
| SPOUSE/SRDP AND PARENT INFORMATION | 25. STATE/FOREIGN COUNTRY NV | | |
| | 26. INFORMANT'S NAME, RELATIONSHIP VICTORIA A. VILLEGAS, WIFE | | 27. INFORMANT'S MAILING ADDRESS (Street and number, or rural route number, city or town, state and zip) 9428 GREENHAM CIRCLE, LAS VEGAS, NV 89117 |
| | 28. NAME OF SURVIVING SPOUSE/SRDP*-FIRST VICTORIA | 29. MIDDLE ALANO | 30. LAST (BIRTH NAME) VILLEGAS |
| | 31. NAME OF FATHER/PARENT-FIRST KENNETH | 32. MIDDLE BRUCE | 33. LAST AMESBURY |
| | 34. BIRTH STATE MT | 35. NAME OF MOTHER/PARENT-FIRST DOROTHEA | 36. MIDDLE - |
| 37. LAST (BIRTH NAME) ALSPAUGH | 38. BIRTH STATE OR | | |
| FUNERAL DIRECTOR/ LOCAL REGISTRAR | 39. DISPOSITION DATE mm/dd/ccyy 03/30/2012 | | 40. PLACE OF FINAL DISPOSITION RES. OF TOM AMESBURY 10607 DOLORES DRIVE, GRASS VALLEY, CA 95945 |
| | 41. TYPE OF DISPOSITION(S) CR/RES | | 42. SIGNATURE OF EMBALMER ▶ NOT EMBALMED |
| | 43. LICENSE NUMBER - | | |
| PLACE OF DEATH | 44. NAME OF FUNERAL ESTABLISHMENT CHAPEL OF THE ANGELS MORTUARY | | 45. LICENSE NUMBER FD1588 |
| | 46. SIGNATURE OF LOCAL REGISTRAR ▶ KAREN MILMAN, MD | | 47. DATE mm/dd/ccyy 03/29/2012 |
| | | | |
| CAUSE OF DEATH | 101. PLACE OF DEATH DECEDENT'S BROTHER'S RESIDENCE | | 102. IF HOSPITAL, SPECIFY ONE <input type="checkbox"/> IP <input type="checkbox"/> ER/OP <input type="checkbox"/> DOA |
| | 103. IF OTHER THAN HOSPITAL, SPECIFY ONE <input type="checkbox"/> Hospice <input type="checkbox"/> Nursing Home/LTC <input checked="" type="checkbox"/> Decedent's Home <input type="checkbox"/> Other | | |
| | 104. COUNTY NEVADA | 105. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number, or location) 10607 DOLORES DRIVE | |
| | 106. CITY GRASS VALLEY | | |
| | 107. CAUSE OF DEATH Enter the chain of events --- diseases, injuries, or complications --- that directly caused death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE. IMMEDIATE CAUSE (Final disease or condition resulting in death) (A) PENDING TOXICOLOGY Sequentially, list conditions, if any, leading to cause on Line A. Enter UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST (B) (C) (D) | | |
| 108. DEATH REPORTED TO CORONER? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO REFERRAL NUMBER 1120-0855 | | 109. BIOPSY PERFORMED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | |
| 110. AUTOPSY PERFORMED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | | 111. USED IN DETERMINING CAUSE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | |
| 112. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN 107 UNK | | | |
| 113. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEM 107 OR 112? (If yes, list type of operation and date.) UNK | | | |
| PHYSICIAN'S CERTIFICATION | 114. I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED. Decedent Attended Since (A) mm/dd/ccyy (B) mm/dd/ccyy | | 115. SIGNATURE AND TITLE OF CERTIFIER ▶ |
| | 116. LICENSE NUMBER | | 117. DATE mm/dd/ccyy |
| | 118. TYPE ATTENDING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE | | |
| CORONER'S USE ONLY | 119. I CERTIFY THAT IN MY OPINION DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED. MANNER OF DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Homicide <input type="checkbox"/> Suicide <input checked="" type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined | | 120. INJURED AT WORK? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK |
| | 121. INJURY DATE mm/dd/ccyy | | 122. HOUR (24 Hours) |
| | 123. PLACE OF INJURY (e.g., home, construction site, wooded area, etc.) | | |
| | 124. DESCRIBE HOW INJURY OCCURRED (Events which resulted in injury) | | |
| | 125. LOCATION OF INJURY (Street and number, or location, and city, and zip) | | |
| 126. SIGNATURE OF CORONER / DEPUTY CORONER ▶ PAUL HOWE SCHMIDT | | 127. DATE mm/dd/ccyy 03/28/2012 | 128. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER PAUL HOWE SCHMIDT, DEPUTY CORONER |
| STATE REGISTRAR | A | B | C |
| | D | E | |
| Printed on: 06/04/2012 06:29 AM By SCHMIDT, PAUL (PSCHMIDT) | | FAX AUTH.# | CENSUS TRACT |

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

| | | |
|---------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA, |) | CASE NO. 2:11-cr-00337-JCM-GWF |
| Plaintiff, |) | |
| |) | ORDER ON GOVERNMENT'S MOTION TO |
| v. |) | DISMISS CRIMINAL INFORMATION |
| |) | WITHOUT PREJUDICE |
| DAVID AMESBURY, |) | |
| |) | |
| Defendant. |) | |

ORDER

Upon motion of the Government, **IT IS HEREBY ORDERED** that the Criminal Information in criminal case number 2:11-cr-00337, as to defendant DAVID AMESBURY, be dismissed, without prejudice.

IT IS FURTHER ORDERED that any future hearing dates are vacated.

DATED June 6, 2012.


UNITED STATES DISTRICT COURT JUDGE